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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,025	10/24/2003	Suzanne M. Torontali	HO-P02882US0 (9394L)	1757

27752 7590 06/16/2006

THE PROCTER & GAMBLE COMPANY
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EXAMINER

SKIBINSKY, ANNA

ART UNIT PAPER NUMBER

1631

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 USC 121:
 - I. Claims 1-18, drawn to a method for amplifying a signal for detection of a polynucleotide where a pre-optimized oligonucleotide is linked to a microsphere, drawn to class 436, subclass 6.
 - II. Claim 19, drawn to a method of optimizing an oligonucleotide hybridization-based assay, drawn to class 436, subclass 6.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group I and II are directed to related different inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j).
3. In the instant case, the Groups are independent or distinct because Group I entails linking oligonucleotides to microspheres while Group II, is an array of oligonucleotides which does not involve the microspheres. Group I and II are further distinct in that Group II entails identifying an optimal oligonucleotide from the fingerprint via an algorithm while Group I uses an algorithm to select a pre-optimized oligonucleotide. The selection of the optimal oligonucleotide of Group II includes the

Art Unit: 1631

step of subjecting an optimal oligonucleotide to an oligonucleotide hybridization-based assay. Thus, the subject matter of Group I and II are drawn to different inventions and the search for both Groups together would be an undue search burden as they are directed to methods that are generally distinct and separate.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Art Unit: 1631

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Skibinsky whose telephone number is (571) 272-4373. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anna Skibinsky, PhD



ANDREW WANG
SUPERVISORY PATENT EXAMINER
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